IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.251 OF 2007

Bharaatkumar Mangilal Shah ...Appellant

vs.

Maharashtra Rajya Adivasi Vikas
Mahamandal Maryadit Nashik & ors. ...Respondents

Mr.Milind Sathaye for the Appellant
Mr.P.N.Joshi for Respondent Nos.1 and 2.
Mr.R.S.Apte h/f Rahul Motkari for Respondent No.3.

CORAM: A.S.OKA,J.
DATE : APRIL 3,2007.

P.C.:

1. Heard the learned Advocate for the Appellant. The Appellant is the Plaintiff who filed a suit simplicitor for perpetual injunction. The first Respondent had published a notice of auction of certain articles and agricultural produce. The auction was kept on 10th January 2007. According to the case of the Appellant, on 10th January 2007 he attended the auction as per the notice and proposed to buy a particular agricultural produce at the rate of Rs.1916/- per quintal. According to his case, the Regional Manager of the first Respondent informed him on that day that the upset price was fixed at Rs.2,200/- to Rs.2,300/- per quintal and therefore, the Appellant's proposal cannot be accepted. The second date for auction as notified was 17th January 2007. According to the case of the Appellant, on that day, the auction was not conducted. According to the case of the

Appellant, on 24th January 2007, he was present in the office of the second respondent for participating in the auction sale and he offered to purchase the produce at the rate of Rs.2223/- per quintal. According to the case of the Appellant the auction was cancelled by the second Respondent and he fixed the next date on 14th February 2007. On 13th February 2007, the Appellant submitted a letter showing his willingness to purchase the stock at the rate of Rs.2223/- per quintal. On 14th February 2007, the Appellant was informed that a bid of a third party submitted on 10th January 2007 for Rs.1958/- per quintal has been accepted by the first and second Respondents. It is the case of the Appellant that as a result of the acceptance of the bid which is lower than the bid offered by the Appellant, there is a direct loss of Rs.4,00,000/- and more to the first and second Respondents. The suit was filed on 15th February 2007 and ad-interim relief was granted in favour of the Appellant.

2. By the impugned Judgment and Order dated 23rd March 2007, the application for temporary injunction made by the Appellant has been rejected.

3. The learned Counsel for the appellant submitted that on 10th January 2007, the Appellant was personally present and offered a bid. He submitted that there is nothing on record to show that any third party offered the bid on that day and

in fact, the bid offered by the Appellant was not accepted as according to the second Respondent, the upset price was fixed at Rs.2200/- to Rs.2300/- per quintal. He submitted that even according to the case of the first Respondent, the price offered by the successful bidder is Rs.1855/- per quintal which is less than the bid offered by the Appellant. He submitted that there is a gross illegality committed by the first Respondent. He invited my attention to the letter dated 24th January 2007 written by the Appellant. He submitted that this is a clear case of illegality and irreparable loss will be caused to the Appellant if injunction was not granted.

4. I have considered the submissions. The auction was in respect of an agricultural produce. It is obvious that the Appellant was intending to purchase the stock for selling the same in the local market. It is also obvious that even assuming that the case made out by the Appellant is true, the loss which may be caused to the Appellant due to alleged illegal action on the part of Respondent Nos.1 and 2 can be always quantified in terms of money. Therefore, it is very difficult to accept the submission that an irreparable loss will be caused to the Appellant if temporary injunction is denied.

5. As of today, there is no prima facie material on record to show that the Appellant remained present on 10th January 2007

and offered a bid. The first correspondence made by the Appellant is on 24th January 2007 in the form of a letter addressed to the second Respondent. Even in the said letter, the Appellant has not stated that he was present on 10th January 2007 and had offered any bid. Even in the letter dated 13th February 2007, the Appellant has not at all stated that on 10th January 2007, he was present in the concerned office of the first Respondent. There is a prima facie material on record to show that the stock is already lifted by the auction purchaser.

6. Considering the aforesaid circumstances, there is no case made out to interfere with the discretionary order passed by the learned Trial Judge of refusing to grant temporary injunction.

7. It is made clear that the observations which are made in this order are only for limited purpose of considering the merits of the Appeal and the pending suit will be decided without being influenced by the said observations.

8. At this stage, the learned Advocate for the Appellant prays that ad-interim relief granted by this Court may be continued for a reasonable period. Considering the reasons recorded above, prayer is rejected.

JUDGE